

000192

09/998,860

## REMARKS

Claims 31-33 are pending in the application.

Claims 31-33 stand rejected under 35 USC 102(e) as being anticipated by Katz (USPN 6,731,954). Applicant respectfully traverses this rejection.

The rejection asserts that the cited reference teaches "providing a mobile station's position to a spatial processing unit (232) (column 5, lines 28-45, column 3, lines 55-67 and figure 3)." Upon careful reading of the disclosure at column 5, lines 28-45, the disclosure teaches that the base station knows in which direction the subscriber terminal is located. In contrast, the combinations defined by claims 31-33 include, among other things, providing the mobile station's position, which is not the same as that taught by the disclosure which provides a direction. Thus, claims 31-33 are patentably distinguishable over the cited reference.

Accordingly, the rejection of claims 31-33 under 35 USC 102(e) should be withdrawn in the next Office action.

Moreover, the rejection acknowledges that the cited reference does not teach "providing a base station's position to the spatial processor," as recited in claims 31-33. Instead, the rejection alleges that this feature is inherent without providing an explanation why it is inherent.

Inherency exists only if the missing feature is necessarily present in the thing described in the reference. (MPEP 2131.01.) Applicant submits that the alleged inherent feature is not necessarily present. In fact, the reference teaches only that direction of the mobile station is derived and this direction is derived without knowledge of the position of the mobile station or the position of the base station (see column 5, lines 27-46). Thus, claims 31-33 are patentably distinguishable over the cited reference.

Accordingly, the rejection of claims 31-33 under 35 USC 102(e) should be withdrawn in the next Office action for this additional reason.

000192

09/998,860

Furthermore, the claims recite "calculating the direction of the mobile station with respect to the base station according to the mobile station's position and the base station's position." Nowhere does the cited reference teach this feature. Thus, the claims are patentably distinguishable over the cited reference for this additional reason.

Also, the claims recite "calculating the number and direction of beams according to information supplied by a multipath database that includes records of mobile station's position and angle of arrival of energy." Nowhere does the cited reference teach this feature. Thus, the claims are patentably distinguishable over the cited reference for this additional reason.

In view of the foregoing, Applicant submits that all pending claims are in condition for allowance. Applicant respectfully requests the reconsideration and reexamination of this application and the timely allowance of the pending claims. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

If there are any other fees due in connection with the filing of the response, please charge the fees to our Deposit Account No. 17-0026. If a fee is required for an extension of time under 37 CFR 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Dated: November 4, 2004

Respectfully submitted,

By: 

Donald C. Kordich  
Attorney for Applicant  
Registration No. 38,213

QUALCOMM Incorporated  
5775 Morehouse Drive  
San Diego, California 92121-2779  
Telephone: (858) 658-5928  
Facsimile: (858) 658-2502